

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF SOUTH CAROLINA

Demian Pinckney Bey,	)	
	)	
Plaintiff,	)	No: 2:16-cv-2530-RMG
	)	
v.	)	<b>ORDER</b>
	)	
Kamila Szymczynska, Berkeley Cnty. Asst.	)	
Solicitor, and Deadra Jefferson, Chief	)	
Administrator,	)	
	)	
Defendants.	)	
_____	)	

This matter comes before the Court on the Report and Recommendation (“R & R”) of the Magistrate Judge recommending that the Court dismiss Plaintiff’s case without prejudice pursuant to Rule 41 of the Federal Rules of Civil Procedure. (Dkt. No. 6). For the reasons set forth below, the Court **ADOPTS** the R & R.

**Background**

On July 13, 2016, Plaintiff filed a *pro se* complaint against Defendants. (Dkt. No. 1). On that same day, Plaintiff file a motion for leave to proceed *in forma pauperis*. (Dkt. No. 2). The application to proceed *in forma pauperis* requests information regarding the applicant’s employer, pay, wages, other income, and assets. The application also requests information regarding the applicant’s expenses, debts, and other financial obligations.

Instead of providing the requested information, Plaintiff wrote “Private information” as a response to all of the questions (Dkt. No. 2), and attached an “Affidavit of Financial Statement” from the Moorish National Republic/Moorish Divine and National Movement of the World (Dkt. No. 2-1). The Affidavit of Financial Statement asserts, in part, that Plaintiff does not possess “any gold or silver coins” to “pay the restricting demands,” and asserts that requiring Plaintiff to

file a motion to proceed *in forma pauperis* “is a violation of Amendment IX of the United States Constitution and a violation of [the Court’s] fiduciary duties.” (Dkt. No. 2-1 at 2). Furthermore, the Affidavit asserts that if the Court does not allow Plaintiff to proceed in accordance with the views pronounced in the Affidavit, “additional lawful remedy actions” may be filed against “Officers of the Court.” (*Id.*).

On July 19, 2016, the Magistrate Judge issued a Proper Form Order, which required Plaintiff to either pay the filing fee or complete his case into proper form by August 12, 2016, or the case would be dismissed. Plaintiff did not pay the filing fee or complete the *in forma pauperis* application, so the Magistrate Judge issued an R & R recommending that the complaint be dismissed. (Dkt. No. 6). Plaintiff subsequently filed an objection to the R & R (Dkt. No. 8) and a second motion for leave to proceed *in forma pauperis* (Dkt. No. 9). The second motion contains the same “Private information” responses as the first motion.

### **Legal Standard**

The Magistrate Judge makes only a recommendation to this Court. The recommendation has no presumptive weight, and the responsibility for making a final determination remains with this Court. *Mathews v. Weber*, 423 U.S. 261, 270-71 (1976). This Court is charged with making a de novo determination of those portions of the R & R to which specific objection is made. Additionally, the Court may “accept, reject, or modify, in whole or in part, the findings or recommendations made by the magistrate judge.” 28 U.S.C. § 636(b)(1). This Court may also “receive further evidence or recommit the matter to the magistrate judge with instructions.” *Id.*

### **Discussion**

Plaintiff’s primary objection to the R & R is that he is “not refusing to provide any financial information.” (Dkt. No. 8 at 1). Instead, Plaintiff asserts that the Affidavit of Financial

Statement is his “answer to any financial information.” (*Id.*). Furthermore, Plaintiff asserts that the second motion to proceed *in forma pauperis* contains “[t]he forms that are being requested.” (*Id.* at 2).

Irrespective of any plaintiff’s asserted nationality, to proceed in federal court, he or she must abide by certain rules. By refusing to either pay a filing fee or provide any substantive financial information on his application to proceed *in forma pauperis*, Plaintiff has failed to do so here. Accordingly, the Court adopts the Magistrate Judge’s R & R as the order of the Court.

### **Conclusion**

The Court **ADOPTS** the Magistrate Judge’s R & R as the Order of the Court (Dkt. No. 6). Plaintiff’s complaint is dismissed without prejudice. In light of Plaintiff’s failure to adhere to Court procedures and the implication that Plaintiff may file subsequent actions against “Officers of the Court,” the Clerk of Court is directed not to file any additional documents from Plaintiff unless they are accompanied by a filing fee or a completed application to proceed *in forma pauperis*.

**AND IT IS SO ORDERED**



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Richard M. Gergel  
United States District Court Judge

September 19, 2016  
Charleston, South Carolina